

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VICTOR M. CASILLAS,

Plaintiff,

VS.

DENNIS R. MCDONOUGH,
SECRETARY, DEPARTMENT OF
VETERANS AFFAIRS;

Defendant.

SA-22-CV-00959-JKP

ORDER

Before the Court in the above-styled cause of action is Plaintiff's *pro se* Application to Proceed in District Court without Prepaying Fees or Costs and proposed civil Complaint, filed September 2, 2022 [#1]. The motion was automatically referred to the undersigned upon filing, and the undersigned has authority to enter this order pursuant to 28 U.S.C. § 636(b)(1)(A). By his motion, Plaintiff seeks leave to proceed *in forma pauperis* ("IFP") based on his inability to afford court fees and costs. Having considered the motion and documentation provided by Plaintiff, the Court will grant the motion to proceed IFP and order service of Plaintiff's Complaint.

All parties instituting any civil action, suit, or proceeding in a district court of the United States, except an application for a writ of habeas corpus, must pay a filing fee of \$350, as well as an administrative fee.¹ *See* 28 U.S.C. § 1914(a). Plaintiff's motion to proceed IFP includes his

¹ The administrative fee, which is currently \$50, is waived for plaintiffs who are granted IFP status. See *District Court Miscellaneous Fee Schedule*, available at <http://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>.

income and asset information, which indicates that Plaintiff is unemployed and has no other regular source of income. However, Plaintiff will start receiving monthly Social Security payments in October 2022 in the amount of \$1,020.00. Plaintiff's motion details his monthly expenses and the current balance in his bank account. The information provided demonstrates that Plaintiff does not have sufficient monthly resources available to pay the filing fee, and the Court will grant the motion to proceed IFP.

Pursuant to the Court's October 8, 2019 Standing Order, the undersigned reviewed Plaintiff's proposed Complaint for frivolousness. Plaintiff has sued Dennis R. McDonough, Secretary of the Department of Veterans Affairs under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act of 1973. (Compl. [#1-1], at 1.) Plaintiff, a Hispanic male over the age of 60, alleges he was employed by Defendant at the South Texas Veterans Health Care System until he was asked to retire against his will due to his age and was terminated in September 2021. (*Id.* at 3.) According to Plaintiff, he also suffers from a disability involving his hands and experienced a hostile work environment where his colleagues "laughed and punished" him based on his disability. (*Id.*) Plaintiff asserts that he filed charges against Defendant with the Equal Employment Opportunity Commission (EEOC) on February 7, 2022, and received notice of his right to sue on April 27, 2022. (*Id.* at 2.) Plaintiff does not attach these documents to his proposed Complaint, but he has attached the EEOC's dismissal of his appeal for untimeliness. (Dismissal [#1-1], at 5–8.)

The Court finds that, despite Plaintiff's failure to include facts pertaining to race discrimination in his pleadings, Plaintiff's proposed Complaint involves at least one non-frivolous claim. Therefore, Defendant should be served with this lawsuit.

IT IS THEREFORE ORDERED that Plaintiff's *pro se* Application to Proceed in District Court without Prepaying Fees or Costs [#1] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Complaint [#1-1] shall be filed by the Clerk without prepayment of fees, costs or the giving of security therefore, and the Clerk shall, until further Order of this Court, waive the collection of any other fees or costs from Plaintiff.

IT IS FURTHER ORDERED that, if not already accomplished, within ten (10) days of the date of this Order, Plaintiff shall submit to the Clerk's Office a fully completed United States Marshal Service Form 285, including fully complete addresses, for each Defendant required to be served and the United States Marshal's Service shall serve each Defendant with a copy of the Complaint and a copy of this order by certified mail, return receipt requested.

SIGNED this 15th day of September, 2022.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE